

### **REMARKS**

Claims 1-2 and 4-17 are pending in this application. Claim 3 has been cancelled. In this Response, Applicant has provided remarks that explain some of the deficiencies of the references cited by the Examiner. In light of these deficiencies, Applicant submits that the Examiner's rejections have been overcome. As such, reconsideration and allowance of the pending claims is respectfully requested.

### **THE OBJECTIONS TO THE CLAIMS**

At page 3 of the Office Action, the Examiner objected to claim 3 for failing to further limit the subject matter of a previous claim. In response, Applicant has cancelled claim 3. In light of the cancellation, Applicant submits that the Examiner's objection is moot. As such, reconsideration and withdrawal of the objection is respectfully requested.

### **THE REJECTIONS UNDER 35 U.S.C. § 103**

At pages 4-11 of the Office Action, the Examiner rejected claims 1-9, 11, and 14-17 under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,393,139 to Lin *et al.* ("Lin") in view of U.S. Patent No. 4,210,899 to Swonger *et al.* ("Swonger"). For at least the reasons set forth below, Applicant submits that the Examiner's rejections have been traversed.

Lin discloses a security access method and apparatus that verifies both a user's fingerprints and the fingerprint entering sequence to determine whether an access can be authorized. By using both the fingerprints and the entering sequence as the access criteria, a highly secured device is purportedly created using low cost commercially available components. Lin is completely silent with regard to the amount of time that the apparatus allows for a user to verify the user's fingerprints and the fingerprint entering sequence, a fact conceded by the Examiner. *See* Office Action at Page 5.

As set forth in Applicant's Response filed on August 23, 2007, one embodiment of the present invention also authenticates the identity of a user. According to this embodiment, the method includes obtaining a sequence of data sets of biometric characteristics of the user, where each data set relates to one of a plurality of parts of the user's body. Then, each data set is compared with authentic versions stored in a database. Preferably, the order in which the sequence of data sets was obtained is monitored. In the August 23, 2007 Response, Applicant

amended independent claims 1 and 14 to clarify that, in contrast to Lin, the present invention determines whether the sequence of data sets are obtained within a predetermined period of time. See, e.g., Claims 1 and 14 and Written Description at Page 6, lines 6-11. An authentication signal is issued if the data sets satisfactorily match the corresponding authentic versions, the sequence of data sets was obtained in a predetermined order, and the sequence of data sets was obtained within the predetermined period of time. *Id.*

In an attempt to cure the deficiencies of Lin, the Examiner has cited Swonger. Specifically, the Examiner states that Swonger discloses that predetermined time of access, and therefore that a user's body parts are placed on a sensor within a predetermined time of access. Swonger, however, does not disclose such a feature.

The portion of Swonger cited by the Examiner (col. 2, line 11), refers to what data or areas are accessible to a user. Along these lines, Swonger discloses that access to data or a specific area can be determined based on a particular time period of access. In other words, a specific area, for example, may be accessible to a person only between the hours of 9 a.m. to 5 p.m. The disclosure of Swonger contrasts with the recitations of independent claims 1 and 14 of the present invention. That is, claims 1 and 14 specifically recite that one step determines whether each of the plurality of parts of the user's body are placed on the biometric contact sensor at a sensing position within a predetermined period of time. Swonger makes no mention of such a feature. Instead, Swonger discloses allowing access to an area during a particular time period of access.

In sum, a skilled artisan would not have been motivated to arrive at the present invention based on the references cited by the Examiner without using the present invention as a template, which, of course, is a classic case of impermissible hindsight. Moreover, even if, *arguendo*, a skilled artisan had been motivated to combine the teachings of Lin and Swonger, they do not teach the features of the present invention recited by independent claims 1 and 14, either alone or in combination. As such, Applicant respectfully requests reconsideration and allowance of the pending claims.

### **CONCLUSION**

All claims are believed to be in condition for allowance. If the Examiner believes that the present remarks still do not resolve all of the issues regarding patentability of the pending

claims, Applicant invites the Examiner to contact the undersigned attorneys to discuss any remaining issues.

A Petition for Extension of Time is submitted herewith to extend the time for response three months to and including March 13, 2008. A Fee Sheet Transmittal is submitted herewith to pay for the three month extension of time and the Request for Continued Examination. No other fees are believed to be due at this time. Should any fee be required, however, please charge such fee to Bingham McCutchen LLP Deposit Account No. 50-4047, Order No. 19111.0124.

Respectfully submitted,  
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Dated: March 13, 2008

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